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## THE LAW AND LAWYERS OF HONORÉ DE BALZAC.<sup>1</sup>

The connection between Literature and Law, while not always apparent to him who reads the first without some knowledge of the second, is nevertheless frequent and close. The history of law is the history of civilization, and law itself is only the blessed tie that binds human society together. The novel is the picture of society, and must either implicitly or explicitly be conditioned by the law of its times, just as it must reflect social conventions and customs.

A great many great authors have studied law, though comparatively few of them have known how to use their knowledge. The novels of Dickens and Scott owe much of their humor and interest to their skilful use of their information, but neither of them surpassed Balzac in either information or skill.

Brilliant writers, like cut diamonds, are many sided. Balzac's characters, as portrayed in his novels, included men and women of every walk of life, of every profession and occupation, of every grade of education, of every variation of virtue and vice. He played upon a harp of a thousand strings, though not all the spirits of just men made perfect, and in so doing he, more than any other novelist, has disclosed in his writings his own views upon every phase of the social organism.

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<sup>1</sup> Address read at the Annual Dinner of the Sharswood Law Club, at Philadelphia, on Wednesday, May 3, 1911, and afterwards read before the Pennsylvania Bar Association at their Annual Convention at Bedford Springs, Pa., on June 29, 1911.—Ed.

If you want to obtain a just estimate of a novelist and his work, ascertain if it be possible, his views upon the four subjects which are of all the most difficult: *Religion*, or the relation of man to the spiritual life; *Science*, or the relation of man to the material world; *Woman*, or the relation of the sexes; and *Law* (including *Politics*), or the relation of man to society.

In Religion, Balzac professed himself a devoted adherent to the Catholic Church, which he styled in *Le Médecin de Campagne*, *The Country Doctor*, "A complete system for the repression of the depraved tendencies of mankind," rather than the cold negations of Protestantism. Yet he was fair enough to do full justice to the Jansenists, whose system had much resemblance to practical Protestantism. But it is apparent from many passages in his novels and particularly in *The Country Doctor*, and *Le Curé de Village*, *The Country Parson*, that his Catholicism was political rather than religious. It was a cult rather than a belief. He admired the Church as the conservative power in the State and Society. So far as he had any personal religion he was a deist and a mystic; and, indeed, he held that mysticism was the pure essence of Christianity. It is in the vague aspirations of Louis Lambert, and the influences of Boehm and Swedenborg in *Séraphita* that we find his real beliefs.

His views as to Science correspond with his views as to Religion. As in the latter he was a mystic, so in the former he was an idealist.

The reader of his life will be amused by his scheme to invent a substitute for paper, which he reproduced in the autobiographical part of *Lost Illusions*; by his dream of making a fortune out of the old rubbish in the Sardinian Mines; by his grotesque plan to raise pineapples in his country garden; by his wild project to transport oak timber from Russia to France without counting the cost of freight; by his airy visions of wealth from dairy farming and raising grapes and walnuts. Mulberry Sellers would have embraced him as a brother. In accordance with the equitable maxim, of which he had never heard, he considered that as done which ought to have been done. He had the idea—never mind the dull details. In medical science he was

led away by everything that was new and strange. He was fascinated by the theories of Mesmer, Hahnemann and Gall. He studied astrology, second sight, spiritualism, and consulted fortune tellers.

But as Lawton says, "His scientific knowledge was superficial in nearly every branch. It was his divination that was great." In *Modeste Mignon* he imagined a reaping machine that should do the work of ten men, and in *Catherine de Médicis* he anticipated some theories of modern science. "Everything here below," said Cosmo, the astrologer, "is the outcome of a slow transformation, but all the various forms are of one and the same matter;" and this idea he afterwards elaborated in *La Recherche de l'Absolu*, *The Quest of the Absolute*, and again in *Louis Lambert*: "Everything here on earth is produced by an ethereal substance which is the common element of various phenomena, known inaccurately as electricity, heat, light, the galvanic fluid, the magnetic fluid, and so forth. The sum total of the transformations of this substance under various forms constitutes what is commonly known as matter."

Balzac's opinion of Woman, like all his opinions was essentially conservative, and perhaps best expressed in *La Femme de Trente Ans*, *A Woman of Thirty*, *Une Fille d'Eve*, *A Daughter of Eve*, and *Mémoires de deux jeunes Mariées*, *Letters of Two Brides*. Though woman is the most perfect of creations, and man a poor creature in comparison, yet she is inferior because she is ruled by her instincts and emotions, and is distinctly subordinate to man. To paraphrase the words of the great draughtsman of the Declaration of Independence, he holds this truth to be self-evident that men and women are created unequal. Men know they are the superiors of women, and women down in the bottom of their little boots, that is in their soles, know it themselves. The state of celibacy is contrary to perfect society; a childless woman, he says, is a monstrosity of nature; he made all manner of fun of old maids, and he maintained that woman's mission was to be the mother of the family of a man, and that through her the family must be conserved as the basic unit of human society. The viaticum of married life is resig-

nation and self-sacrifice, the bonds of habit, he says, are better than love any day, and society substitutes a lasting sentiment for the mere passing frenzy of nature and creates the family as the enduring basis of all organized society. In short, in marriage the woman inspires, and the man must work; the woman must sacrifice her will, the man his selfishness.

His treatment of the sexual relation was frank and free, and distinctly different from the reserve shown by English and American novelists. The sex relation is the core of human society, and human society, alas! is generally, like the apple of Eden, rotten at the core. Marriage is only a part of it, and divorce, about which we hear so much, is a still smaller fraction. That inexplicable attraction for the other sex, which characterizes men and women, is doubtless very much the same in London or Philadelphia as it is in Paris, and women, they say, are all alike everywhere, even if some of them in some places are rather more alike than others. Social conventions, however, are very different under different skies. Hence on the one hand our critics freely charge Balzac with immorality, while he in turn was never tired of accusing the English people of prudery and hypocrisy. Perhaps it is safest to say that Balzac was of the French, Frenchy. Their thoughts are not our thoughts, nor their ways our ways.

Balzac, indeed, endeavored to refute the charge that his women were generally, not to put too fine a point on it, not quite exactly just altogether what you would like to have them; and in *Le Père Goriot*, *Old Man Goriot*, he actually compiled a list of his "virtuous women" and his "criminal women," exulting in the result that the former class, including, however, those still to appear, numbered sixty as against thirty-eight of the latter.

If with the one hand he has given us *Beatrix*, *Dinah* and *Valérie Marneffe*, in the other he holds *Eugénie Grandet*, *Ursule* and *Eve Séchard*, who never felt a throb of the heart not inspired by husband or children.

I have taken the trouble and the time (which might perhaps have been better employed) to examine the list of the characters in the *Human Comedy*, compiled by *Mme. Cerfberr* and

Christophe in their Compendium. The total number of female characters is 610, and omitting those who are mentioned so casually that their morals do not appear at all, some 287, I find there are 141 who are decidedly shady as against 182 who are apparently respectable. The general impression received by the reader, however, is that the majority of his characters have no character at all.

In Law and Politics Balzac again appears intensely conservative. He believed in a constitutional monarchy and an aristocracy of the feudal type; aristocracy, he said, was the intellect of the social system. He wrote a pamphlet in favor of primogeniture, and he did not believe in the "rights of man," human equality, or the ability of the masses of the people to govern themselves. One man should have the power to make laws. For the provincial and middle classes, the bourgeoisie, he had little but sneer and satire. He reiterates in his novels his aversion to the Code Napoléon, "that Draconian work," as the leveller of all class distinctions, and particularly did he dislike those provisions relating to inheritance, whose effect was the continual sub-division of estates and the destruction of great houses. Equal rights of inheritance, he said in *A Daughter of Eve*, kill the family spirit. His doctrine was, Let things alone. Letting things be done in their own way is the secret of good government, and the true cause of social sores is the idleness of the rich and immoral. Indeed, he even said that philanthropy, at whose root he hints is vanity, is a sublime error, in reality the bane of society, for it harms the mass while it benefits the individual; but his deep and sincere admiration of philanthropy (in others than himself) appears throughout *The Country Doctor* and *The Country Curate*.

In the literary treatment of his subjects Balzac at first inclined to Romanticism, but afterwards became the exponent, perhaps we should say the apostle, of realism. As a young man he steeped himself in Scott's novels and never lost his intense admiration for them. He called Scott "The Immortal," and often alluded to the Waverly novels as full of scenery, metaphor and dramatic situation. Kenilworth he praised for romance, St.

Ronan's Well for detail and finish, *Ivanhoe* for history, *The Antiquary* for Poesy, and *The Heart of Midlothian* for interest. I have noted in at least eighteen of Balzac's novels frequent allusions to Scott's characters, and particularly to the women, such as Jeanie Deans, Di Vernon (from whom he evidently modelled Laurence in *Une Ténébreuse Affaire*), the Fair Maid of Perth, Queen Elizabeth, *The Highland Widow*, and *The White Lady of Avenel*. And this is curious enough, for he complains there is no passion in Scott; his heroines, Di Vernon excepted, are all alike, and nothing but duty incarnate. Accordingly Balzac's early ambition was to write historical romances in the style of Scott, and the first book published under his own name, *Les Chouans*, shows that he was able to do it. Later on, his novels *Sur Catherine de Médicis*, *Une Ténébreuse Affaire*, and *Maître Cornelius* (the last written to rehabilitate Louis XI from Scott's description of him in *Quentin Durward*) showed that he was able to continue and improve his method. But stronger still was his call to be the painter of contemporary life and manners, and well did he depict the heterogeneous French society of the first half of the 19th century, at once so singularly attractive and repulsive, showing life as it was lived during the reactionary restoration of the Bourbons, and bourgeoisie monarchy of July. Upon this background he painted in brilliant colors man's pitiful struggle against the savage cruelty of nature and society; his plots show the gradual, fateful unfolding of his puppets' characters. That every man must work out his own damnation, is not merely a profound theological dogma, and a practical rule of life, but also a fundamental canon of literary art, amply illustrated in the *Human Comedy*, where over and over again we see how each actor commits the folly, crime, or sin, most congenial to his own nature. Selfishness, avarice, egotism, folly, jealousy, hatred and lust, the whole list of evil traits animate his men and women, and in his opinion the chiefest of them is avarice. Balzac called a spade a spade, and he was very fond of talking about spades; except in those books like *Ursule Mirouet* and *Pierrette*, written expressly for those whom in deference to the French language I will call the June Fillies. "You

young girls," said he in Ursule, "are a public to be dreaded," ("Vous autres, jeunes filles, vous êtes un public redoutable.") Said he, "I write for men, not for young girls, but I defy them to cite a single page in which religion or the family is attacked."

Balzac was indeed a realist. He seized men and women in their homes and on the highways, he tore their clothes from their backs and planted them in the market place under the bright sunlight before the gaping crowd, naked and unashamed, not because they were innocent, but because they gloried in their guilt. There they are with not a rag to conceal their deformities. We watch the long procession pass

"And trace

A damned soul's epitaph in every face."

Scott reproduced human nature in his novels with as much accuracy and fidelity, but his characters are as different from Balzac's as Raphael's cherubs are from the infantile failures preserved in big bottles in the anatomical museums.

Balzac called himself a humble doctor of the Faculty of Social Medicine. Rather let us say a Demonstrator of Pathology and Morbid Anatomy. He takes you into the dissecting room, while Meredith and Thackeray would tell you all you want or ought to know by means of illustrations.

There is evil in life, and literature to be truthful cannot ignore it. But Art for Art's sake is a false maxim, if it be allowed to degenerate into Dirt for Dirt's sake. The esthetic element cannot be separated from the moral. It has been well said by Mr. Frederick Lawton in his admirable book on Balzac, that "the artistic representation of vice and crime is justifiable only in so far as the mind contemplating it is carried out and beyond into the sphere of sane emotion."

Measured by this standard Balzac transgressed. There is no excuse for *Massimilla Doni* and other tales, and none for such a sordid story as *La Cousine Bette*, the Limburger cheese of literature, with Baron Hulot and the Marneffes. A man with a sensible nostril, as Milton neatly translates Horace, needs to hold his nose as he reads. Valérie Marneffe is perhaps the most



loathsome character in the realm of fiction, although Balzac claims that he did not invent her. Perhaps not, it would seem impossible. Balzac, moreover, thus set a bad example for his successors of the decadent school, and those pornographic writers, who out-Balzac Balzac without possessing his redeeming qualities, those authors whose books seem to be covered over with a sticky kind of dirty varnish that smells bad and comes off when you touch it. The great mass of this pseudo-realism is false because (to quote an anonymous critic), it treats an exceptional condition of things, and some particular aspect of life, as though they represented the general and the whole, and this is one reason why young people who lack experience and judgment should not read them. Many of Balzac's other stories are strong meat, even if not as gamey as those mentioned. But in reading Balzac we must take him as he is and extract the abundant honey stored in the lion's carcass. And he must be read and judged in the mass. No single book can be selected which would give the reader a fair idea of his genius. He must study and compare very many or all of Balzac's works, and thus derive a composite expression. As Chamfleury said, "There are two ways to criticize Balzac. First, read and sit down and write an article. Second, shut yourself up for six months and study every detail." Balzac may be justly compared to Dickens for humor, but Dickens was broader in caricature; with Thackeray for satire, but Thackeray was keener; with Meredith for analysis, but Meredith was more subtle; with Poe for imagination, but Poe was more fantastic; with Swift for synicism, but Swift was more pungent; with DeFoe for realistic narrative, but DeFoe surpassed him in verisimilitude; with Scott for vivid description of nature and of men, but Scott was his master as well as his model. Yet Balzac combined in a manner altogether wonderful all these varied powers in such a way that his baptism of the children of his brain as the Human Comedy was justified. Every thing is there.

Balzac was born on May 20, 1799. He died August 18, 1850. Some authorities say it was August 17th, but all agree that he is dead. At this time it makes very little difference to

Balzac, and still less to us, which is correct. In his youth the great Revolution was recent history, and he saw disorganized society as it was rearranged by the First Consul and the Emperor. As he matured he witnessed the reactionary monarchies of Louis XVIII, Charles X, and Louis Philippe. His father was a lawyer, and obedient to the paternal wishes he studied law, first for eighteen months with M. de Guillonet-Merville, an ardent Royalist, and for an equal period with a notary named Passez. Though duly qualified he never practiced either as lawyer or notary. The dry details of the profession were revolting to him. You cannot harness Pegasus to plow. He said to his sister, "I should become like the horse of a treadmill which does his thirty or forty rounds an hour, eats, drinks and sleeps by rule, and they call that living!" But his time was not wasted, for it is doubtful if any writer, not even excepting Scott, found his legal knowledge more useful.

His accurate perception and marvelous memory enabled him to reproduce in imperishable words the men whom he had met and the code which he had studied. I have counted the number of characters in *Cerfberr* and *Christophe's Compendium of the Human Comedy* connected with the law. There are 29 judges and magistrates, 23 barristers, 14 attorneys, 24 notaries and 28 office clerks, in all 118. Not all prominent to be sure, some have only a passing mention, but many of them carry on the main action of the story. There are altogether some 1540 men in the *Human Comedy*, so that approximately eight per cent. of his male characters have something to do with the law. His books are crammed with legal terms and references. The code was at his finger ends; and as modesty can hardly be called the besetting sin of us common lawyers, it will do us no harm to read these novels as a study in comparative law as well as comparative morals.

The Code Napoléon replaced a tangled complication of heterogeneous and conflicting laws and customs. The famous epigram of Voltaire was that a traveller in France changed his laws as often as he changed his horses. Napoleon fused the old French customs of the North with the more developed Roman

law of the South, in the embers of the Revolution, and from them cast the five codes in their enduring symmetry. There is little in the Code Napoléon that is original. It reduced to order and simplicity the pre-existing materials, and therein is its claim to greatness. It could only have been accomplished by the exercise of a highly centralized autocratic power, and so France anticipated Germany by a century. The Code Napoléon was promulgated in 1804; the German Code in 1900.

Of course, this sort of a code is little more than a clear and methodical statement of general principles and rules of practice, and can only be successful in such countries as France, where the law is the expression of legislative intent rather than judicial construction. In France, roughly speaking, the decisions of the courts are not binding as precedents in the English and American fashion; therefore the code is a relatively permanent thing. The most that we can satisfactorily attain is a periodical revision of the statutes. There are some present signs, however, that the French courts are paying more regard to precedent, and our own courts rather less. Perhaps we may say that the French judges follow precedent when they feel like it, and our judges disregard precedent when they feel like it, so we may be approaching a judicial *entente cordiale* based upon the labor-saving formula, "Every case should be decided upon its own peculiar facts," which plan would be a great relief to seven men that can render a reason, or to speak more technically, deliver an opinion according, of course, to the Rule of Reason.

There are many millions of people such as Frenchmen, Germans, Italians, and that sort of thing, who consider themselves more than half civilized, and yet live, in their blessed ignorance, under the Civil Code, or something like it, instead of our common law, and, strange to say, seem to get along fairly well. While our law has borrowed all it cared to from the civil law, the courtesy has not been very greatly reciprocated by these foreigners. The difference between the systems is so great that it is sometimes embarrassing to ascertain the French law in cases that occur in practice, and it may perhaps assist some of you to mention a rule that I have often found useful. If you

want to know what the French law would be in a given state of facts, do not waste time in trying to study it up, for you will never understand it, but apply this simple formula: First, find out, if you can, what our own law would be, or better still, ask some good lawyer. Then take the contrary to this, and the result will probably be a more or less accurate statement of the French law on the subject.

We shall not here adopt this practical method of studying the French law, but out of the wealth of material extract a few samples of Balzac's treatment of law and lawyers. All of his books, except a few of the slighter sketches, have in them something of interest, but many of them are really legal novels. Nor was he unmindful of his obligation. He dedicated *L'Épisode sur la Terreur*, to his former preceptor Merville, his "cher et ancien patron," in terms of affectionate regard, declaring that it was from him that the author had learned enough of legal procedure to manage the business of his "little world;" and from this same Merville he drew the character of Derville, as his ideal of a competent and zealous lawyer.

Balzac's personal experience with the law was not happy. He fell in with many publishers and fell out with all, or at least most of them. He had many creditors, and the feeling between them was one of mutual and distinct dislike. The humdrum duties of supplying MS. on time, and paying bills when they fell due, did not appeal to his artistic genius, but he was a tenacious stickler for his own legal rights.

His most important litigation was with the *Revue de Paris* in 1835, the editor of which sent the proofs of *Le Lys dans la Vallée*, *The Lily in the Valley*, then in course of publication, to the *Revue Française* of St. Petersburg. This Balzac claimed was in violation of their agreement, and he took away his novel from the *Revue de Paris* after three parts had been published. Suit was brought against him to compel him to continue the publication and for damages caused by the delay. It was decided practically in Balzac's favor, though Buloz, the publisher, recovered the money advanced for copy not supplied; but as Buloz had to pay the costs this was not very substantial. In-

spired by this suit, Balzac drew up some years later a *Code Littéraire* for the *Société des Gens-de-lettres* which, needless to say, was never adopted by any one but himself, and his resentment of newspaper criticism led him to lampoon the journalists in his *Distinguished Provincial* and his satirical monograph of the Parisian press.

His experience with another publisher was not so happy. William Duckett obtained a judgment against him for ten thousand francs, and to escape arrest Balzac took refuge at the house of a friend. A writ server obtained admission on the pretence that he wanted to pay Balzac some money, and when the great novelist tripped down stairs to receive it, he was promptly tripped up with an arrest warrant for the debt which his generous friend paid on the spot.

Several times Balzac was imprisoned under the conscription law for failing to serve in the National Guards, and he later on attempted to evade his creditors by executing a fictitious sale of his country place. His biographers do not record the outcome of this experiment, but the net result of his legal complications were probably summed up in *Les Proscrits*, or *The Exiles*, "I see too much of the law not to know that it is well to have nothing to do with it."

Although, of course, Balzac never practiced law he made himself somewhat conspicuous in 1839 by his efforts to save the life of one Peytel, convicted by circumstantial evidence of the murder of his wife and servant. Thackeray, in his *Paris Sketch Book*, gives a long account of the case, which he used to illustrate the superiority of the English criminal procedure over the French. Of Balzac's letter Thackeray remarks that it was so very long, so very dull, and so very pompous, that the Parisian public gave up Peytel and his case altogether.

Notwithstanding his own experience, Balzac, in his general views of law and lawyers, more nearly resembled Scott than Dickens. Like Scott he was a well-read lawyer, and was impartial in his treatment of the profession. He could separate the evil from the good, and could contrast the upright and learned judge and lawyer with the trickster and the incompetent.

Dickens, on the other hand, could see no good in either the science of the law, or in the men who practiced it. He scarcely mentioned law, except in terms of contempt, and nearly all his lawyers are caricatures. With Balzac, I say, it was different, though to be sure his standard, perhaps it was the French standard, of professional ethics, is not quite the same as our own. As examples of Balzac's opinions I have collected a very few of them, scattered through his writings, to illustrate his impressions of law, law students, lawyers and judges.

"Justice," he says in *César Birotteau*, "is the expression of society itself, beneath justice in the sovereign will, the laws by which men have agreed to live."

In *La Femme de Trente Ans*, *The Woman of Thirty*, he says, "Law is the doctrine and custom, the practice of society."

Henriette in *The Lily of the Valley*, in her remarkable letter to Félix elaborates the idea: "My dear, these laws are not all written in a book; customs also create laws; the most important are the least known. Obey the general law in all things without disputing it, whether it hurts or advances your interest."

These manners and customs are often more cruel than the law. As Balzac says in *Une Ténébreuse Affaire*, "The manners of the time are the outcome of human nature, the law is framed by the intellect of the nation (*les mœurs, ce sont les hommes; mais la loi, c'est la raison d'un pays*); customs which are sometimes irrational are therefore stronger than the law."

He gives some occasional suggestions as to legislation. Thus in *The Country Doctor*: "The law maker should be in advance of his age;" "Local differences should be studied before passing laws; every place must be considered separately;" this was probably a reflection upon the uniformity of the *Code Napoléon*. "We have something like forty thousand laws in France," said the Country Doctor, "We might as well have none at all." Of course Balzac uttered some of the conventional gibes about the law. He repeats, in *La Maison Nucingen*, Montesquieu's aphorism: "Laws are like spiders' webs; the big flies get through while the little ones are caught." "A lawyer!"

cried David Séchard in *Lost Illusions*, "the very word gives me the colic."

Indeed, Balzac is ungallant in his comparisons. In *Modeste Mignon* he says a law suit is like marriage, because one party is always left dissatisfied.

"Law, like medicine, has its victim. In the first case one man suffers for the many, and in the second he dies for science;" said the rascally lawyer Fraasier in *Cousin Pons*.

Balzac often notices the developing effect of practice upon lawyers.

"Society goes through our hands," said the Notary Crottat in *The Woman of Thirty*. "We see its passion in that most revolting form, greed. Here it is the mother of a family trying to disinherit the husband's children to enrich the others whom she loves better; or it is the husband who tries to leave all his property to the child who has done his best to earn his mother's hatred."

"There are," said Derville in *Le Colonel Chabert*, "in modern society three men who can never think well of it—the priest, the doctor and the man of law. And they wear black robes, perhaps, because they are in mourning for every virtue and every illusion. The most hapless of the three is the lawyer. When a man comes in search of the priest he is prompted by repentance, by remorse, by beliefs which make him interesting, which elevate him and comfort the soul of the intercessor, whose task will bring him a sort of gladness; he purifies, repairs and reconciles. But we lawyers, we see the same evil feelings repeated again and again, nothing can correct them; our offices are sewers which can never be cleansed."

And so Balzac observes in *Ursule Mirouet*, that Judge Bongrand knew life well and had acquired in his profession large mindedness, learning, accumulated observation, shrewdness and power of conversation.

On the other hand, in *Madame Firmiani*, "There is in a law suit an eagerness, a passion, which may sometimes blind the most honest man alive. Lawyers know how to legitimize the most preposterous claims, there are syllogisms in law to humor

the errors of conscience, and judges have a right to make mistakes."

His accounts of the courts and prison life are remarkably good, especially in reference to Vautrin's career. In the *Splendeurs et Misères des Courtisanes*, there is a most vivid description of the Palais de Justice, and the hall known as the Salle des Pas Perdus, too long to be quoted. All the minute details of the prison cells and corridors and offices are related with the accuracy of a guide book.

Balzac had made a careful study from actual cases of crime and the criminal law, and has offered a number of thoughtful observations about both. While in opposition to Victor Hugo, he approved of the death penalty for murder, yet he does not fail to note that it may lead a criminal who has committed one murder to add another to his account. "There is no such thing," he says in *A Start in Life*, "as a criminal who is bad all through;" and in Vautrin's *Last Incarnation* he refers to the status of released convicts, who are suspicious of society as society is suspicious of them, and are doomed to starvation or crime.

"Ignorance," he says in *Cousin Betty*, "is the mother of every crime;" "a crime is in the first instance a defect of the reason;" a remark which is true only in general; and in *L'Envers de l'Histoire Contemporaine* he suggests that convicts ought to be placed in religious institutions among good men rather than their own kind.

Criminal procedure, he says in *Un Grand Homme de Province, A Distinguished Provincial*, is based on the rule that everything that is probable is true, which is consonant with Bordin's opinion in *Une Ténébreuse Affaire*. "If the simple truth is given, the whole thing looks transparent," and "If the truth often looks like fiction in court, fiction on the other hand looks like truth;" maxims of which Bordin availed himself freely in defending Michu.

In *L'Envers de l'Histoire* he gives a copy of the indictment in 1809 of du Vissard and others, setting forth all circumstances in such detail that, although it was considered short, it



occupies some twenty pages. He calls it *Le Roman de Rob-Roy en France avant celui de Walter Scott*.

Balzac is frequently struck with the inequality and inadequacy of criminal punishment. "How is it," he exclaimed in *Old Man Goriot*, "that a dandy who in a night robbed a boy of half of his fortune gets only a couple of months in prison, while a poor devil who steals a bank note for a thousand francs is condemned to penal servitude?" And in *A Combien l'Amour revient*, *What Love Costs*, "If a lawyer makes off with the fortunes of a hundred families it is far worse than killing a man."

Balzac remembered his student experiences. In *Z. Marcas* he mentioned a students' lodging house in the *Rue Corneille*; "where there is a winding staircase, quite at the back, lighted below from the street, higher up by borrowed lights, and at the top by a skylight. There were forty furnished rooms, furnished as students' rooms are! What does youth demand more than was here supplied? A bed, a few chairs, a chest of drawers, a looking-glass and a table. As soon as the sky is blue the student opens his windows."

And in the same story we see that the profession was overcrowded then as now. "In all the law courts there are almost as many lawyers as there are cases. The pleader is thrown back on journalism, on politics, on literature. Work as he will with all his energy, a young man starting from zero may at the end of ten years find himself below the point he set out from. In these days talent must have the good luck which secures success to the most incompetent; nay more, if it scorns the base compromises which insure advancement to crawling mediocrity, it will never get on." In *Old Man Goriot* it is said that not five advocates in Paris made 50,000 francs a year, and *Peyrade* in *Les Petits Bourgeois* said the streets of Paris were fairly paved with lawyers.

Law students were pretty much the same then as now; *Rastignac* in *Old Man Goriot* went to the lectures simply to answer to his name, and then left. Through a reasoning process familiar to most students he saw the advisability of defer-

ring his studies to the last moment before going up for his examination, and then cramming his work into the third year when he meant to work in earnest.

Balzac gives a minute and interesting study of a law student's experience in *Un Debut dans la Vie*, or *A Start in Life*, one of his most entertaining and farcical sketches. "Live in a garret," said old Cardot to Oscar Husson, "go straight to your lecture and from that to your office; work away morning, noon and night, and study at home, be a second clerk by the time you are two and twenty, and a head clerk at four and twenty." And when he enters Maître Desroches' office the attorney introduces him to Godeschal, the head clerk, with these words, "He will dine with us and sleep in the little attic. Allow him exactly time enough to get to the law schools and back so that he has not five minutes to lose, see that he learns the code and does well at lectures; give him law books to read up when he has done his school work." The boy had to get up at five to go to the office, and his day lasted until bed time; his only holiday was Sunday. They had pleasant jokes for new pupils, one of which was an elaborate scheme to make each fresh arrival pay tribute in the form of a *Bienvenue*, or an elaborate breakfast to the office. A sham register of the High Festivals of the Minions of the Law (*Registre architriclino-basochien*), beginning in 1525, and containing the records of the feasts supposed to have been given by each new comer, was unostentatiously laid on the neophyte's desk, and Frédéric Marest whose turn it was, gave them a bacchanalian feast at the Rocher de Cancale with some young ladies of his acquaintance which proved very unfortunate for Oscar.

The legal profession in Paris was divided, as it now is in England, into the two branches, and Balzac disapproved of the division. It is no more ascertainable, he said in *Les Petits Bourgeois*, *The Middle Classes*, why the law gives a client two men instead of one, than why an author needs both a printer and a bookseller, more for the public interest overlooking the obvious reason that it is to give two men a job than only one. The Association of Advocates forbade the members to do any legal act

which is essentially the duty or right of the attorneys; and the advocates, who had to be householders, at least were under the supervision of a board of control like our censors, and Peyrade, the shyster lawyer, was summoned before it.

The lawyers seem to have in their fashion enjoyed life. Perhaps they had dinners together, as we do. In *The Seamy Side* it was said that M. Joseph's face bore traces of a joviality peculiar to the notaries and attorneys of Paris, and in *Modeste Mignon* the jests of a lawyer's office were considered famous. And they knew what professional courtesy meant. The attorneys of Paris, he says in *The Middle Classes*, live in real brotherhood, and the result is a certain facility for arranging any matter that can be arranged. They obtain from each other such concessions as are admissible, applying the proverb one good turn deserves another, which is acted on in fact in every profession. The counterpoise to this good fellowship lies in what may be called the professional conscience; no consideration can overcome the sense of honor of a lawyer.

Of course, there were both sheep and goats in the profession. In Paris, said Blondet in *La Maison Nucingen*, there are attorneys of two classes. There is the honest attorney: he abides within the law, pushes on his case, neglects no one, never runs after business, gives his clients his honest opinion, and makes compromises in doubtful cases; he is a Derville in short. Then there is the starveling attorney, to whom anything seems good provided he is sure of expenses; he will work to make the worse appear the better cause, and take advantage of a technical error to win the day for a rogue. Of the latter case Fraasier in *Cousin Pons* is a good example, who thus advised his client: "Unless you keep within the law, you get nothing. You know nothing of the law; I know a good deal. I will see that you keep on the right side of it, and you can hold your own in all men's sight. As for your conscience, that is your own affair."

A lawyer, says Balzac, in *The Country Parson*, and again in *An Historical Mystery*, is at the first judge of the client and the case; but unfortunately Clousier, the lawyer in the *Country Parson*, lost his practice by his adherence to this maxim, instead

of that asserted by Dr. Minoret in Ursule, that the glory of a clever lawyer is to gain a rotten suit. Such men are those of whom Milton speaks as "allured to the trade of law, grounding their principles not on the prudent and heavenly contemplation of justice and equity, which was never taught them, but on the promising and pleasing thoughts of litigious terms, fat contentions, and flowing fees."

Balzac pays his respects to clients as well as to their lawyers. They were conscienceless as well. "I do not know," said the Marquise d'Espard, when examined as to her affidavit in L'Interdiction, "what my attorney may have put into my mouth."

Attorneys, he says in the Middle Classes, meet with more clients who tell lies than who tell the truth; and in Lost Illusions: "The client before and after the law suit would furnish a subject worthy of Meissonier; there would be brisk bidding among attorneys for the possession of such admirable bits of genre."

Practical experience of litigation teaches the layman a good deal. There is nothing so little known as that which everybody is supposed to know, the law of the land, to wit, and so he shows in Lost Illusions how David Séchard learns something about the law of commercial paper. No wonder that, by way of illustration, he said in L'Elixir de longue Vie, The Elixir of Life, "thoughtful as a man in a law suit on his way to court." Everyone knows how sometimes we have to give our clients a good talking to, although as Latournell, the notary, in Modeste Mignon said, we fling their secrets into the Styx which every lawyer keeps handy for them. So, in The Bachelor's Establishment, Desroches, the attorney, gave the dreadful Philippe Bridau one of those unanswerable sermons, in which a lawyer places things in their true light, using the crudest language to epitomize the facts of his clients' conduct, to analyze their ideas, and to reduce them to the simplest expression.

A lawyer's apparent indifference sometimes surprises the agitated client. Derville when consulted by Birotteau was staid and self-possessed as is the wont of the men of law, accustomed as they are to the most harrowing disclosures. Birotteau felt

as a new thing in his experience this necessary coolness; it was like ice to an excited man telling the story of his misfortunes.

But this coolness is better for the client. Balzac remarks in his description of the trial in *Une Ténébreuse Affaire*: "The lawyers' faces inspired confidence; a doctor never allows a patient to see his misgivings, and a lawyer always shows his client a hopeful countenance. These are the rare cases when insincerity becomes a virtue."

Balzac's pictures of lawyers and their offices abound in his novels, all characterized by his minute attention to detail. In *Cousin Pons* he thus described the shyster Fraasier and his office: "The room was a complete picture of a third-rate solicitor's office with the stained wooden cases, the letter files so old that they had grown beards, the red tape dangling limp and dejected, the pasteboard boxes covered with the gambols of mice, the dirty floor, the ceiling yellow with smoke." There is a similar uninviting description of Claparon's business office in *César Birotteau*. "Fraasier was small, thin and unwholesome looking; his red face, covered with an eruption, told of tainted blood. A wig pushed back on his head displayed a brick colored cranium of ominous conformation. One might have thought there was pestilence in the air."

Regnault in *La Grande Bretèche* is thus depicted. "A man tall, slim, dressed in black, hat in hand, who came in like a ram ready to butt his opponent, showing a receding forehead, a small pointed head and a colorless face of the hue of a dirty glass of water. He wore an old coat much worn at the seams, but he had a diamond in his shirt front, and gold rings in his ears."

Desroches is described in *Un Ménage de Garçon* as having a harsh voice, a coarse skin, pitiless eyes, and a face like a ferret's licking the blood of a murdered chicken from its lips."

One of the characters in *La Maison Nuncingen* thus described this same Desroches. "He used to make me feel that I had met a tiger escaped from the *Jardin des Plantes*. He was lean and red haired, his eyes were the color of Spanish tobacco, and his complexion was harsh. He looked cold and phlegmatic. He was hard upon the widow, pitiless to the orphan, and a ter-

ror to his clerks. Learned, crafty, double faced, honey tongued and never flying into a passion."

The rascally Goupil in Ursule Mirouet had short legs, a broad face with a mottled skin, a hooked nose, twisted cross-wise from right to left, and thin, reddish hair. His arms were over long, ending with huge hands, that were seldom clean. With worn-out shoes and thread-bare, greasy clothes, nothing was lacking in the aggregate of sinister details.

The notary in France, and especially in Paris, is a very important personage, and middle class men believe a notary far rather than an attorney. A Paris citizen, said Balzac, is not without some alarm when he goes to see his attorney, while he always goes with fresh pleasure to his notary, and admires his wisdom and good sense. He is the man of business par excellence, and enjoys a lucrative monopoly in his supervision of deeds and mortgages, marriage contracts, wills, articles of incorporation, etc. The notaries form an exclusive self-perpetuating association, something like our Stock Exchange, and now in Paris number but 122. When a notary dies or retires his business is sold, and his successor takes over and preserves the records and papers of the office. Their clients are protected by this salable value of their office and apparently they are obliged to make a deposit for their clients' further protection. Balzac refers to this several times in *César Birotteau* and *Les Petits Bourgeois*. Notaries cannot speculate on their own account. Balzac frequently refers to this also and their fraudulent tricks to circumvent the law, especially in *Les Petits Bourgeois*.

Balzac has a great deal to say about judges, and most of his judges are honest men, like Popinot in the *Commission in Lunacy*, and old Blondet in *The Cabinet of Antiques*. The latter's integrity was as deeply rooted in him as his passion for flowers; he knew nothing but law and botany. He would have interviews with litigants, listen to them, chat with them and show them his flowers; he would accept rare seeds from them, but once on the bench, no judge on earth was more impartial.

The allusion here is to the practice which at least up to the Revolution permitted, or at least condoned, the personal

solicitation of judges and even the making of presents to them by litigants, like the custom in England which caused Bacon's downfall. Indeed, the office of judge in France was formerly salable like an estate. In Balzac's novels there are frequent allusions to the influence used outside of the court room upon the judge. Judge Camusot, for example, was completely under his wife's influence, and the ladies generally seem to have been very successful in this irregular practice. In the *End of Evil Ways* the Countess de Sérizy called on the judge to interview him as to Lucien de Rubempré, and actually seized the notes of his examination and threw them into the fire. The ladies, said Balzac, have a code of their own, and laugh at statutes framed by men. "If that is a crime," said the Countess, "Well, Monsieur must get his odious scrawl written out again."

To mention those of Balzac's novels that possess legal interest is almost to repeat the catalogue of all. To get over the ground we must proceed *hoppibus, skippibus, jumpibusque*, a Latin expression you may hunt for in Cicero. Of those most important may be mentioned these: The Country Parson derives its dramatic interest from the murder of the miser, Pingret, by Tascheron, during his intrigue with Véronique Graslin. He was convicted through circumstantial evidence; and it is curious to note that the jury were not segregated, and that Graslin, who was one of the jurymen, talked the case over with Véronique, his wife, who suggested her lover's acquittal, because if Tascheron's life was spared the relatives of the murdered man might recover his money. Seven of the jury, therefore, voted to acquit and five to convict; the judges voted with the minority, and Tascheron was convicted. (This was in 1829, before the law of May 13, 1836.) His execution took place at the time of the birth of Véronique's child, and the remainder of the book is an attempt to work out the change wrought in Véronique's character through the influence of the Country Parson. Her dramatic confession at her death reminds the reader of Hawthorne's *Scarlet Letter*.

Ursule Mirouet, one of Balzac's masterpieces, is distinctly a legal novel. Ursule, the orphan niece and ward of Dr. Minoret,

and intended by him to be his universal legatee, was naturally the object of the enmity of his heirs at law, among whom Ursule was not included on account of her father's illegitimacy. This gave Dionis, the notary, an opportunity to give a learned opinion to the heirs at law on the law of inheritance by illegitimates, referring to Articles 757, 908 and 911 of the Code, and the decisions of the Court of Appeal and the Royal Court of Paris, against which Goupil cited a judgment delivered by the Supreme Court at Colmar in 1825. When a mortgage is given to Dr. Minoret to secure his advances to Savinien, the formalities are all mentioned, even to the registration fees. And when Dr. Minoret settles his account with Ursule, as her guardian, a family council was held in accordance with the code. Dr. Minoret being aware that a will in Ursule's favor might be disputed, and that his adoption of her might give rise to litigation, invested her money in consols payable to bearer, and hid them in a volume of the Pandects, a book pretty sure not to be opened. He then wrote a will in favor of the Vicomte de Portenduère, Ursule's fiancé, and explained his plan in a letter to Ursule, hidden in a cabinet. The doctor's nephew stole the will and letter and the certificates, and there is related in detail the inventory and legal settlement of the estate, and the final discovery of the theft.

In *La Recherche de l'Absolu*, or *The Quest of the Absolute*, Balzac introduces very many points of law. The rights of children in their parents' estate, and the emancipation of a minor by marriage or by consent of the family council if eighteen years of age, under Articles 476 and 478 of the Code, and the minor's disability under Article 484 to sell her real estate, are important in the frame work of the story. In like manner in *Albert Savarus*, Rosalie de Watteville was emancipated before twenty-one.

César Birotteau is the story of the successful but simple-minded perfumer, who amassed a fortune by his lotions, and then ended in bankruptcy through the fraudulent land schemes of the notary Rogron. They had straw men in those days. Balzac's own financial troubles doubtless induced him to make a special study of the bankrupt law. We have the filing of the



petition, the publication of the decree in the Gazette, the filing of the schedule, the appointment of the agent, the preparation of the inventory, Birotteau's deprivation of civil rights, the meeting of creditors and appointment of trustees, the Concordat or composition, and the bankrupt's discharge; all are set forth in such elaborate detail that the story has been styled a handbook of the Commercial Code. Though Birotteau by his bankruptcy lost his civil rights, in the end, crushed, insulted and yet forgiving, he is rehabilitated through the efforts of his friends and dies dramatically after his triumphant return to the Exchange. In *César Birotteau* are also many details of landlord and tenant law, and building contracts, so intricately described that it is impossible to condense them.

Cousin Pons was a childlike old musician, with a famous collection of valuable paintings. The novel is entirely taken up with the conspiracy of the infamous Doctor Poulain and the Lawyer Fraasier, who try to induce him to make a will in favor of his dreadful nurse, La Cibot; and after he died, leaving a will in favor of his friend Schmucke, the intrigues are related, by which the legatee was defrauded of his rights. In this story mention is made of several points of testamentary law; that a physician in attendance on a testator cannot accept a bequest, Article 909 of the Code; that in the absence of heirs in the direct line a testator may dispose of his entire property by will, Article 916; and there are described different ways of making wills, which may be either dictated to a notary in the presence of witnesses, or holographic, *i. e.*, written out, dated and signed by the testator himself. It is curious to note the fidelity to detail with which Balzac describes the formalities of the registration of death (the *Acte de Décès*) with witnesses under Article 77 of the Code.

*Les Petits Bourgeois*, or *The Middle Classes*, is so crammed throughout with the sordid legal schemes of La Peyrade and Cerizet, that it is impossible to do justice to it here. In fact it contains sufficient material for a separate paper. *Les Illusions Perdues*, or *Lost Illusions*, abounds with commercial and patent law, suits, executions and interpleaders, and arrests for debt.

It appears that arrears of rent are a preferred claim in bankruptcy; and that articles of partnership must be filed with the Tribunal of Commerce, see Article 42 of the Commercial Code. We learn a good deal about the difference between the Paris and country lawyers, the law of costs and the method of protesting drafts. As old Séchard said, "See what comes of knowing how to write your name."

In *Esther* it is noted that by writing *Bon pour* you simply promise to pay; doubtless Article 1326 of the Code is alluded to. The word *Accepté* constitutes a bill of exchange, Article 122, Commercial Code, and makes you liable to imprisonment for five years. *Le Cabinet des Antiques*, or *The Collection of Curiosities*, is the story of Notary Chesnel's devotion to his family clients, and is filled with the law of forgery, from which we learn that in France the charge of forgery may be brought by a private individual and can be settled out of court if the money is returned to the person defrauded. In *Le Curé de Tours*, *The Abbé Birotteau*, we have the simple old Abbé and his legal tangles with his landlady, the artful old maid who got him to sign an agreement to give up his furniture if he left the house, and then forced him to go. *Les Comédiens sans le savoir*, *The Unconscious Comedians*, might have, as a second title, *How to win a law suit*. Gazonel, a man of the South, comes to Paris about his pending law suit, apparently a case of eminent domain as we would call it, meets his old friends de Lora and Bixiou, with whom he did the town, and discovered that the way to succeed in litigation is to reach the court through the ladies and politicians who enjoy the judicial confidence. After Gazonel had given promissory notes to Miss Jennie Cadine, the mistress of Massol, who had the case decided in his favor, he had his notes handed back to him by de Lora, and the farce ended in a roar of laughter.

In *Eugénie Grandet* the author takes pains to explain the difference between liquidation and bankruptcy, either voluntary on his own petition, or involuntary upon the petition of his creditors. Liquidation is not bankruptcy. It is a disgraceful thing to be a bankrupt, but liquidation reflects no discredit, as it can

be privately arranged without recourse to the Tribunal of Commerce. The old miser, Grandet, undertook to liquidate his brother's affairs, with the consent of the creditors, and managed so well by tiring them out for five years that he made a very good thing out of it for himself, but in the end Eugénie, who inherited his fortune, paid all the debts in full for the sake of her worthless cousin Charles. So Charles Mignon, in Modeste Mignon, underwent a voluntary liquidation in this way and afterwards returned to Havre a millionaire.

*Un Homme d'Affaires*, *A Man of Business*, is a little sketch showing how a sharp lawyer got the better of the sharp spendthrift de Trailles, by his greater familiarity with the procedure in attachments.

In *Cousin Betty* there are numerous legal details. Whereas a Frenchman might be imprisoned but five years for debt, a foreigner remained in prison for life, or until his debts are paid, so Cousin Betty had Steinbock, who was a Pole, arrested by a cunning little trick, in order to gratify her jealousy. Victorin Hulot appears as the type of honest lawyer, who studied his cases thoroughly and would not accept every brief that was offered him. The unspeakable Valérie after her husband's death remains chastely a widow for ten months in accordance with Article 228 of the Code, and the provision of her marriage contract with Crevel, drawn up by Berthier, are given in detail. He even notes that a marriage contract costs fifteen francs, and the marriage costs thirty, which expense caused many poor people to ignore the legal formalities. And in this book, as in many others, Balzac refers to Article 913 of the Code that forbids a man from giving away more than half of his estate if he leaves one child, more than a third if he leaves two children, or more than a quarter if he leaves three or more.

*Pierrette* is the touching story of a little orphan girl, whose ill treatment by her guardian gave rise to law suits only terminated by her death. The law regulating guardianships through the family council is discussed, including the appointment of a tuteur subrogé, or deputy guardian, who in *Pierrette's* case was Auffray, the notary, to whom the court gave the custody of

Pierrette after Rogron's cruelty to her became known. Under Article 421 of the Code, the deputy summoned a family council of six members, who were appointed by the justice of the peace as their legal president. Normally, under Article 407, this should be composed of three relations on the father's side and three on the mother's, but, as this was impossible, the justice, under Article 409, summoned family friends in his discretion. The council dismissed Rogron as guardian and appointed Auffray as Pierrette's guardian and Ciprey deputy guardian. But Pierrette died before her law suits were ended, and it was never legally determined how far her death was due to the cruelty of her unnatural guardian.

*Une Ténébreuse Affaire*, sometimes called a *Gondreville Mystery*, is the narrative of the abduction of Malin, in the time of the first Empire, and a large portion of the book is occupied with the very vivid account of the trial of Michu, his conviction, the ineffectual appeal to Napoleon, and his execution, all under procedure anterior to the Criminal Code.

In *Ou Mènent les Mauvais Chemins*, or *The End of Evil Ways*, and *La Dernière Incarnation de Vautrin*, Balzac gives us a picture of society from the viewpoint of the criminal. He relates in a manner absolutely true in its details, criminal procedure, the habits and methods of the criminals of the day, their peculiar code of honor, and repeats their very slang. These books and *L'Histoire des Treize*, *The History of the Thirteen*, with *Ferragus*, seem to be the origin of the police novel of later times.

The examination of Lucien and Vautrin by the Juge d'Instruction in *The End of Evil Ways*, and of Tascheron in *The Country Parson*, in order to discover the facts of the case, show the source from which the police of our times have derived the third degree, though, indeed, the English State trials disclose a startling similarity.

Balzac approved of this method of ascertaining guilt. Innocent men, he says, are quickly released; and while public opinion condemns persons under suspicion, it is favorable to those committed for trial.

*Le Contrat de Mariage*, or *The Marriage Settlement*, is the story of a very unhappy marriage with too much mother-in-law. As its title implies the interest of the tale centres about the sordid business negotiations for the marriage between young Salonet and old Mathias, the two notaries representing the bride and groom. Balzac never wrote anything more entertaining.

In the *Country Doctor* Balzac illustrates very neatly the French law under Article 1583 of the Code, according to which a sale is complete between the parties and the property passes as soon as the thing and the price are agreed upon, although delivery is not made nor the price paid.

In *Gobseck*, Derville the Attorney, who appears to little advantage, tells the story of the old miser, with references to the law that a woman not in trade cannot make a technical bill of exchange, and that fees for settlements and compromises are not according to the fee bill. The story turns upon the law of sale with *faculte de rachate*, or right of re-purchase, Article 1659 of the Code, a tempting arrangement to the needy Countess de Restaud. Derville shows how she, being a married woman, could not thus get money on her jewelry without her husband's consent, Article 217 of the Code; how he, Derville, assisted the usurer to circumvent the husband; how the court made a deed of all his property to Gobseck, taking a counter deed as security; and how the countess, after her husband's death, hastily destroyed the deed thinking it was a will, so that Gobseck remained the owner of the estate, though he afterwards restored it to the count's son.

In *Le Depute d'Arcis*, or the Member from Arcis, Balzac gives the law as to recognition of natural children by *acte authentique* under Article 334, that is, by deed acknowledged before a notary. This, of course, was not equivalent to legitimization, which could be accomplished by the marriage of the parents under Article 331; but gave the children so recognized the certain shares of their parents' estates, defined by Article 756 of the Code, viz., a third of the share of a legitimate child. The law of interments is here referred to and also in *Ferragus*. In the

latter book it is said that interments were under the charge of the police department, and that a husband has no right to the custody of his wife's dead body nor a father to his child's. In Paris there were seven classes of funerals regulated by law as to cost. In *Un Menage de garçon*, old Claparon was given a third class funeral, considered very cheap, but even that was too expensive for old Goriot.

In *Les Paysans*, Balzac repeats the proverb *Charbonnier est maître chez lui*, a man's house, even a charcoal burner's, is his castle, apparently an inheritance from the Roman law (Gaius in Dig. II, 4, 18), while in *Une Ténébreuse Affaire*, Malin harangued the crowd "*des droits du foyer, de l'habeas corpus et du domicile anglais.*"

In many of his stories Balzac illustrates incidentally numerous titles of the law. In *Catherine de Médicis* he illustrates the sumptuary laws of the period, the methods of judicial torture and execution, and even notes how modern municipal regulations have abolished the medieval gargoyles. In *Gambara* the old musician's panharmonicon was sold in execution on the public square in accordance with Article 617 of the Code of Procedure. In *La Vendetta* he shows the law of the marriage of minors, under which men under twenty-five years, and women under twenty-one years, cannot contract marriage without their parents' consent. After that age, if consent is withheld, and *Acte respectueux* or "respectful summons" under certain formalities, Articles 148 and 152, is held to supply the place of consent, this being a legal and formal way of saying "we intend to do it whether you like it or not." In this way under Notary Roguin's advice Ginevra Piombo and Luigi Porta, whose families were separated by the Vendetta were finally married. In *Un Homme d'Affaires*, or a Man of Business, and *La Maison Nucingen* or The Firm of Nucingen, we are given the law of confusion of debts under Articles 1300 of the Code; in *Les Employés*, the law of gambling contracts under Article 1965 of the Code, and the purchasing of a bankrupt's debts, the allowance of which rests with the committee of liquidation, as was also arranged by Diard in *Les Maranes*; in *Melmoth Réconcilié* he

notes that "P" is the usual abbreviation of "Protested" on the bills of exchange; and even in La Grande Bretèche, that masterly tale worthy of Poe, where the story is related three times from three several view points, the notary's narrative is drawn to life. M. Regnault in his description of La Grande Bretèche refers to the law forbidding, under heavy penalties, a trespass upon enclosed property, and says a hedge is the same as a wall. Speaking of the furniture he says, there was not enough to fill ten lines in an inventory; he explains the will of Madam de Merret, and the law forbidding a notary to accept a bequest under the will he has written; indeed, he talks as though he were dictating a legal document.

Le Colonel Chabert is the pathetic story of a hero of the Napoleonic Wars, who was severely wounded at the battle of Eylau in 1807, and left senseless on the field. Supposed to be killed, his body was stripped and buried with the dead. Having revived and extricated himself he found himself in a hospital, a physical and mental wreck, and when having suffered a total change in appearance, he recollected his name and rank, found no one to believe him. He was alive, yet officially dead, and in something of the predicament described by Kipling in *The Strange Ride of Morrowby Jukes*, or *Mrs. Cunnius*, in *Cunnius v. Reading School District*, 206 Pa., 469, or *Miss Mary Devlin*, in *Devlin v. Commonwealth*, 101 Pa., 273. Nine years afterwards he succeeded in reaching Paris, and found that his wife had married Count Ferraud, by whom she had two children. This was bad enough, but, even worse than that, he found that his will had been proved and his estate settled and divided, his wife receiving most of it. Apparently this was in accordance with Sec. 120, *et seq.* of the Code providing for the administration of the effects of an absentee, who is entitled to receive his property back again in its then condition, and one-fifth of the income, if he reappears within fifteen years. For if a man wants to have his estate properly settled, it is absolutely necessary for him to die. It is not enough for him to disappear, no matter for how long, if he neglects this simple preliminary. When he comes back unexpectedly and makes himself generally disagreeable his

return to the scene of his former activities will disarrange the most careful administration, and even if his supposed death was mourned, his reappearance will be even more sincerely lamented. This at least was Colonel Chabert's experience, and though not a lawyer he speedily concluded that there was a jurisdictional defect; and not being of the Enoch Arden temperament, he resolved to claim his money, and his wife minus the two superfluous children. Receiving no reply from his wife to his letters, he resolved to apply to her lawyer Derville, and the story opens with his entry into Derville's office, Balzac's description of which is hardly attractive. The office was a large room furnished with the traditional stove to be seen in all these dens. The stove pipe crossed the room diagonally to the chimney of a bricked up fire place and on the marble chimney piece were chunks of bread, triangles of Brie cheese, pork cutlets, glasses, bottles and the head clerk's cup of chocolate. The smell of these dainties blended so completely with that of the overheated stove, and the odor peculiar to old papers, that the trail of a fox would not have been perceptible. The only decorations consisted of huge yellow posters, seizures of real estate, auction sales in partition, and all the glory of a lawyer's office. An enormous stack of pigeon holes adorned the wall from top to bottom, crammed with papers with an infinite number of tickets hanging from them at the ends of red tape, which give a peculiar physiognomy to law papers. The lower rows were filled with cardboard boxes yellow with age, on which might be read the names of the more important clients, whose cases were juicily stewing at the time. The dirty window panes admitted but little daylight. Were it not, says Balzac, for the mouldy sacristies where prayers are weighed out and paid for like groceries, and for the old clothes shops with their fluttering rags, an attorney's office would be of all social marts the most loathsome. The Colonel, with his singular appearance and costume, was received with ridicule by the office clerks, who were engaged in drafting an appeal from the head clerk's dictation, a greenhorn among them copying, as part of the legal form, the head clerk's instructions to dot his "i's." Derville is out, but an appointment was made for one o'clock



in the morning, as this notable lawyer is apparently able to work all night. After hearing the story Derville, notwithstanding that he was counsel for the Countess Ferraud, agreed to represent the Colonel, and advanced him money for living expenses. Upon receiving affidavits from Germany which convinced Derville of Chabert's identity, the lawyer explained to his client the legal complication resulting from the wife's second marriage. The point was not covered by the Code, and could only be decided by the judges "according to conscience," who might not think the Colonel in a very pretty moral position at his age to reclaim a wife who no longer cared for him. (But see Article 139 of the Code.) Derville therefore advised a compromise for an annuity of 24000 francs, for as he justly said, with so much a year you can find women who would suit you better and make you happier. So Derville interviewed the Countess, his own client, as though she were a stranger and an adversary, and strange to say assumed to advise her, yet it seemed to be regarded as entirely regular. The compromise fell through and the Countess fell back on Delbecq, an attorney of her own, and completely triumphed over the old man who spent the rest of his life in an asylum.

I have referred particularly to this story in order to show the standard of professional ethics followed by Derville. In *What Love Costs an Old Man*, the Duc de Grandlieu employed Derville to ascertain the source of the wealth of Lucien de Rubempré, who was the suitor of the Duke's daughter. Derville visited Eve Séchard, Lucien's sister, and deliberately misrepresented himself as the attorney for a supposed natural brother, who would be entitled to certain right in old Séchard's estate, and by her answers was assured of the falsity of Lucien's statement that his sister had supplied him with the money.

In *L'Interdiction*, or *The Commission in Lunacy*, Balzac portrays Popinot his ideal Judge. The Marquise d'Espard who was living apart from her husband, and was very tired of him, presented, through the Attorney Desroches, a petition to the Court that the Marquis should be declared incompetent to manage his business affairs. The case was assigned to Judge Popinot,

and the Marquise through her particular friend Rastignac procured Dr. Bianchon, the Judge's nephew, to invite him to dine with her. The Judge by way of answer quoted the Code of Civil Procedure, Art. 378, Sec. 8, forbidding any magistrate to eat or drink in the house of any party to a litigation before him. The Judge was a widower with a penchant for old clothes and shabby hats, his hands preferred pockets to gloves, and he had a distinct aversion to shaving more than twice a week. With his huge feet, flat nose and enormous ears, his appearance did not commend itself to the casual observer, while his purity of mind and honesty of purpose made it impossible for him to enter into those schemes which political pull then made essential for professional advancement. Familiar with criminals, and knowing the life of all the poor of his district, he occupied the time not spent in his judicial duties in works of charity, so that his merits were best appreciated by those who were least able to reward them.

The petition of the Marquise, founded upon Sec. 489 of the Code, is set out in full by Balzac and occupies nearly a dozen pages, setting forth in detail the alleged eccentricities of the Marquis; and after reading it Judge Popinot resolved to call upon the parties and examine them as to the facts. This procedure may seem queer to us, but the difference in practice is agreeable to the formula already given for French law. At any rate Popinot visits the Marquise, taking his friends along with him, and cross-examines her so skilfully that her dishonest motives are laid bare. He leaves as tea is served. In his subsequent visit to the Marquis he ascertains that the real motive of the apparent extravagance of the Marquis was his endeavor to make restitution to the lawful heirs, of property confiscated at the time of the Revocation of the Edict of Nantes by Louis XIV, and given to the ancestors of the Marquis. Just as the Judge had written his report and was about to dismiss the petition, the president of the court dismissed him on the ground that he had taken tea with the Marquise, and Caesar's wife must be above suspicion, so Camusot a dependable judge, who figures in other novels, is appointed in his stead.

But Balzac is too vast. It is impossible to discuss the law and lawyers of the human comedy in an evening. It would be easier to exhaust my audience than my subject, and to accomplish the latter would violate the rule against perpetuities. Any Balzackian will see that this is only the barest sketch of the subject, but as Lord Coke remarked, with one of his brilliant mixed metaphors, after a tedious discussion of the once profitable, but now happily forgotten, Statute of 32 Hen. VIII c. 5 (Co. Litt 290 a) "This little taste shall give a light to the diligent reader."

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